

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

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ROBERT P. GUTRELO
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W.D. OF TN, MEMPHIS

INTERNATIONAL PAPER COMPANY,)
Plaintiff,)
vs.)
GAINY TRANSPORTATION)
SERVICES, INC.,)
Defendant.)
Civ. No. 04-2986-ML/P

ORDER FOLLOWING HEARING GRANTING IN PART DEFENDANT'S MOTION TO
COMPEL DISCOVERY

Before the court is defendant Gainey Transportation Services, Inc.'s ("Gainey") Motion to Compel Discovery, filed May 17, 2005 (dkt #16). In its motion, Gainey seeks an order requiring plaintiff International Paper Company ("IP") to "fully and completely" answer interrogatory numbers 1, 3, 5, 6, 7, 8, 13 and 14 of Gainey's First Set of Interrogatories and to produce all non-privileged documents responsive to request numbers 8 through 11 of Gainey's First Document Production Requests. Gainey also asks that it be awarded its attorney's fees and costs incurred in bringing this motion. On May 31, 2005, IP filed its response. With respect to a majority of the interrogatories and document requests, IP stated in its response that it has already provided all information and produced all documents in its possession which are responsive

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to these discovery requests, and that much of the information that Gainey seeks in these discovery requests does not exist. Regarding document requests 10 and 11, which seek transportation contracts, rate schedules, and motor carrier commitments for other trucking companies with whom IP did business from October 1, 2001 through October 1, 2005, IP argues that these documents are not relevant. Moreover, IP contends that the production of this information would violate the confidentiality provisions contained in the contracts and that disclosure of this confidential commercial information to Gainey would be harmful to IP.

On June 16, 2005, the court held a hearing on this motion. Counsel for all parties were present and heard. At the conclusion of the hearing, the court GRANTED the motion in part as follows:

1. On or before July 15, 2005, IP shall respond to interrogatory numbers 1, 3, 5, 6, 7, 8, 13 and 14, and document request numbers 8 and 9 by identifying, where appropriate, responsive documents by bates numbers. If no additional responsive information or documents are available, IP shall provide a supplemental response stating such.

2. On or before July 15, 2005, IP shall respond to document request numbers 10 and 11 by producing copies of all contracts, rate schedules, and motor carrier commitments for other trucking companies that IP used or by agreement may have used to provide transportation services for the Gainey transport lanes at issue in

this lawsuit, for the period from October 1, 2003 to the present. The court finds that this information is relevant to the litigation, including issues of mitigation of damages and expert reports, as well as the pattern of practice of IP during this specific time period. The court further finds that Gainey's need for this information outweighs the potential harm to IP of disclosure. These documents shall be produced subject to the Stipulated Protective Order. IP may, prior to production, redact those portions of these documents which do not relate to the Gainey transport lanes at issue in this litigation.

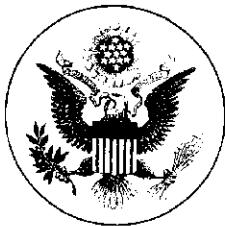
3. Defendant's request for attorney's fees and expenses is DENIED.

IT IS SO ORDERED.

Tu Pham

TU M. PHAM
United States Magistrate Judge

June 21, 2005
Date



Notice of Distribution

This notice confirms a copy of the document docketed as number 22 in case 2:04-CV-02986 was distributed by fax, mail, or direct printing on June 22, 2005 to the parties listed.

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Honorable Jon McCalla
US DISTRICT COURT